

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 87102

Specific Purpose:

This section is amended to clarify which forms listed in this section apply only to Residential Care Facilities for the Elderly (RCFEs) and which forms listed in this section also apply to other licensing categories. It is also amended to clarify that all of the specified listed forms are incorporated into regulations by reference in this section.

Factual Basis:

Amendments to this section are necessary for further clarity. They distinguish between the specified forms in the forms listed in this section that apply only to RCFE regulations and the specified forms in the forms listed in this section that apply to other community care facility (Group Homes and Adult Residential Facilities) regulations and to RCFE regulations. Forms that apply only to RCFE include such forms as the Core of Knowledge Training Standard (01/16) - RCFE 80-Hour Initial Certification, while forms that also apply to other community care facilities include such forms as the LIC 9139 (01/16) - Renewal of Continuing Education Course Approval, Administrator Certification Program.

This regulation meets the "clarity" standard of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsection (c). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code and the principles of "plain English" rule drafting.

Section 87102(l)

Specific Purpose:

This section is adopted to incorporate a new form, the Licensing Complaint Poster (PUB 475, 1/15), that only applies to RCFEs, by reference in these regulations.

Factual Basis:

Adoption of this section is necessary for consistency with statute in Health and Safety Code section 1569.33, amended in statute by Senate Bill (SB) 895 (Chapter 704, Statutes of 2014). This statute required the California Department of Social Services (CDSS) to design a poster or cause a poster to be designed that contains information on how to report complaints. The CDSS has made this poster available to licensees and requires that it, or a poster that is consistent with the content of the poster provided by CDSS, be posted in all RCFEs.

This regulation meets the "consistency" and "reference" standards of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsections (d) and (e). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

Section 87109(b)

Specific Purpose:

This section is amended to revise the requirement that licensees notify specified parties at least sixty (60) days before the effective date of any change in ownership of a RCFE to at least thirty (30) days prior to such a change.

Factual Basis:

Amendment of this section is necessary to clarify the timeframe for licensees to provide notification of change in ownership in regulation. It is also necessary for consistency with statute. Health and Safety Code section 1569.191(a)(1), amended in statute by Assembly Bill (AB) 878 (Chapter 526, Statutes of 1993), requires that licensees provide written notice to CDSS and residents or their legal representatives of the licensee's intent to sell a RCFE at least thirty (30) days prior to transfer of the property or business.

This regulation meets the "clarity," "consistency" and "reference" standards of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsections (c), (d) and (e). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

Section 87309(b)

Specific Purpose:

This section is amended to establish the requirement that medicines which are centrally stored must be stored as specified and update the reference to subsection (c) of Section 87465.

Factual Basis:

Amendment of this regulation is necessary to clarify that the storage requirement does not apply to all medications, only those that must be centrally stored as specified in the referenced regulations section. It is also necessary for consistency with regulations in the referenced Section 87465. The referenced regulations have requirements for medications which are centrally stored, including the circumstances under which medication must be centrally stored.

Amendment of this regulation to remove the incorrect reference to Section 87465(c) is necessary for consistency in referencing a related regulation. Section 87465(c) specifies requirements for licensees to assist residents with self-administration of medication, while Section 87465(h) specifies requirements for medications to be centrally stored, which is the subject of this regulation. Barclays, which provides access to the California Code of Regulations (CCR), Title 22, Division 6, RCFE through the Office of Administrative Law website, became aware of the incorrect reference as a result of complaints from the public. The incorrect reference also appears in the public CCR, Title 22, RCFE regulations, which are accessed through CDSS Community Care Licensing Division (CCLD) website. Since the subsection may change by renumbering in future regulations packages, CDSS is repealing and not replacing the incorrect reference, but is retaining the reference to Section 87465, which contains the correct regulation on central storage of medications.

This regulation meets the "clarity," "consistency" and "necessity" standards of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsections (a), (c) and (d). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

Section 87468(a)

Specific Purpose:

This section is amended to replace "Each resident" and "the following" with "Residents in residential care facilities for the elderly" and "those listed below."

Factual Basis:

This regulatory change is necessary to clarify that personal rights are provided to all residents in Residential Care Facilities for the Elderly (RCFEs) as specified in Section 87468.

This regulation meets the "clarity" standard of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsection (c). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

Section 87468(a)(1)

Specific Purpose:

This section is adopted to add "Residents in all facilities shall have the following rights."

Factual Basis:

This regulatory change is necessary to clarify that residents in all facilities, regardless of whether RCFEs are privately operated or publicly operated, to continue to be afforded the personal rights in existing regulations. Addition of regulation is necessary to comply with Health and Safety Code sections 1569.265 and 1569.267, added by AB 2171 (Chapter 702, Statutes of 2014). These statutes establish personal rights for residents in privately operated RCFEs and specify that these rights are to be honored in addition to those addressed by existing regulations. These changes to statute do not change the requirement that personal rights in existing regulations also continue to apply to residents in publicly operated facilities.

The remainder of these regulations comprise existing personal rights in Section 87468 that have applied, and will continue to apply as amended, to both privately operated and publicly operated RCFEs.

This regulation meets the "clarity," "consistency" and "reference" standards of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsections (c), (d) and (e). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

Sections 87468(a)(1)(A) through (a)(1)(C) are Renumbered from Sections 87468(a)(1) through (a)(3)

Specific Purpose/Factual Basis:

Sections 87468(a)(1) through (a)(3) are renumbered to Sections 87468(a)(1)(A) through (a)(1)(C) due to adopting Section 87468(a)(1) above. There is a grammatical change to the text of Section 87468(a)(1)(A).

Section 87468(a)(1)(D) is Renumbered from Section 87468(a)(4)

Specific Purpose:

Section 87468(a)(4) is renumbered to Section 87468(a)(1)(D) due to adopting Section 87468(a)(1) above. This section is being amended to delete prior language from the personal right that reads: "...provisions of law regarding complaints and of procedures to confidentially register complaints, including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency." It is also amended to adopt the personal right so that residents have the right to "confidentially contact the Community Care Licensing Division of the California Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the facility."

Factual Basis:

This regulatory change is necessary to clarify that residents in all RCFEs have the right to make complaints regarding the licensee directly to specified agencies and how and where residents may file complaints. This regulation is also necessary to establish a personal right that complies with Health and Safety Code section 1569.885(c), added to statute by SB 211 (Chapter 409, Statutes of 2003). This statute requires that residents be informed of their right to contact CDSS, the long-term care ombudsman, or both, to make complaints in regard to a licensed facility. In addition, this new personal right is necessary to be consistent with the requirement in Health and Safety Code section 1569.885(c) since it identifies the specific agencies responsible for licensing and advocacy and clarifies that residents should not be hindered from exercising this right while in a RCFE.

The CDSS has elected to provide CCLD as a direct contact for complaints regarding RCFEs, for purposes of clarity. This language is added to regulation pursuant to broad authority given to CDSS to promulgate regulations for licensed RCFEs in Health and Safety Code section 1569.30.

This regulation as a portion of existing personal rights in Section 87468 that have applied, and will continue to apply as amended, to both privately operated and publicly operated RCFEs.

This regulation meets the "clarity," "consistency" and "reference" standards of the APA, Section 11349 of the Government Code, subsections (c), (d) and (e). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

Sections 87468(a)(1)(E) through (a)(1)(J) are Renumbered from Sections 87468(a)(5) through (a)(10)

Specific Purpose/Factual Basis

Sections 87468(a)(5) through (a)(10) are renumbered to Sections 87468(a)(1)(E) through (a)(1)(J) due to adopting Section 87468(a)(1) above. There are grammatical changes to the text of Sections 87468(a)(1)(E), (a)(1)(G), (a)(1)(H) and (a)(1)(I).

Handbook Section 87468(a)(1)(J)

Specific Purpose/Factual Basis:

This handbook section is amended to remove prior language in handbook for Health and Safety Code section 1569.313 and add current statutory language for Health and Safety Code section 1569.313. Amendment of this handbook is necessary to remove language that is not part of, and add language that is part of, current statutory language in Health and Safety Code section 1569.313 for clarity and consistency with current statute.

Sections 87468(a)(1)(K) through (a)(1)(R) are Renumbered from Sections 87468(a)(11) through (a)(18)

Specific Purpose/Factual Basis:

Sections 87468(a)(11) through (a)(18) are renumbered to Sections 87468(a)(1)(K) through (a)(1)(R) due to adopting Section 87468(a)(1) above. There are grammatical changes to the text of Sections 87468(a)(1)(K) and (a)(1)(L).

Section 87468(a)(2)

Specific Purpose:

This section is adopted to expand the personal rights afforded to residents in RCFEs in this "Phase I" regulations package.

Factual Basis:

This regulatory change is necessary to clarify that residents in privately operated RCFEs are to be afforded personal rights in statute that are in addition to the personal rights in existing regulations. Adoption of this regulation is necessary to comply with Health and Safety Code section 1569.269, added by AB 2171 (Chapter 702, Statutes of 2014). This statute establishes 30 personal rights for residents in RCFEs, some of which are not addressed by existing regulations, and applies these rights to residents in privately operated RCFEs. These personal rights are being incorporated by reference in this "Phase I" regulations package, which will be followed by more extensive changes to resident personal rights regulations to incorporate personal rights for all RCFEs in a forthcoming "Phase II" regulations package.

This regulation meets the "clarity," "consistency" and "reference" standards of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsections (c), (d) and (e). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

Handbook Section 87468(a)(2)

Specific Purpose/Factual Basis:

This handbook section is added for ease of use by including the language of Health and Safety Code section 1569.269 referenced in Section 87468(a)(2).

Sections 87468(c) through (c)(3)

Specific Purpose:

These sections are amended to remove regulation in the existing Sections 87468(c) through (c)(2) that requires facilities "licensed for seven (7) or more" to post complaint information and personal rights "or, in lieu of a posted copy of personal rights, instructions on how to obtain additional copies of these rights." They are also amended to add regulations in new Section 87468(c) to require licensees of all RCFEs to post "personal rights and complaint information" in areas accessible to "residents' responsible persons, or conservators, and the public" as well as residents and their relatives.

Regulations are also added in Sections 87468(c)(1) through (c)(3) to require accessible, consistent, and universal posting of resident personal rights and complaint information in all RCFEs.

Factual Basis:

Amendment of the regulation to remove reference to facilities licensed for seven (7) or more residents is necessary to clarify that, regardless of the number of residents in a facility and whether a facility is privately operated or publicly operated, personal rights and complaint information must be posted in all RCFEs.

- (c) To comply with statute, the requirement that licensees post personal rights based on the number of residents in a facility will no longer apply to privately operated RCFEs. Health and Safety Code sections 1569.267(a) and (b), added to statute by AB 2171 (Chapter 702, Statutes of 2014) requires licensees of privately operated RCFEs, regardless of the number of residents in their facilities, to post information about resident personal rights. Given the requirement that licensees of privately operated RCFEs post personal rights, CDSS is using its broad authority to promulgate regulations for licensed RCFEs in Health and Safety Code section 1569.30 to also require that licensees of publicly operated RCFEs post personal rights. It also is necessary to remove existing regulation permitting licensees to either post personal rights or instructions on how to obtain additional copies of these rights in lieu of a posted copy for consistency with these requirements.
- (c)(1) The requirement that licensees post procedures for filing confidential complaints is being superseded as necessary to comply with Health and Safety Code section 1569.33, amended in statute by SB 895 (Chapter 704, Statutes of 2014). This statute required CDSS to design a poster or cause a poster to be designed that contains information on how to report complaints. The CDSS has made the poster available and requires that it, or a poster that is consistent with the content of the poster provided by CDSS, be posted in all RCFEs.
- (c)(1)(A) The CDSS is using its broad authority granted by Health and Safety Code section 1569.30 to require that personal rights and complaint information also be accessible to residents' responsible persons or conservators and the public for consistency with existing regulations. Section 87101 defines "responsible person" as an "...individual or individuals, including a relative, health care surrogate decision maker, or placement agency, who assist the resident in placement or assume varying degrees of responsibility for the resident's well-being" and "conservator" as "...a person appointed by the Superior Court pursuant to Probate Code section 1800 et. seq. or Welfare and Institutions Code section 5350, to care for the person, or estate, or person and estate, of an adult." People in these roles act on behalf of residents and need transparent access to personal rights and complaint information to support residents in regard to these rights when necessary. The public needs transparent access to personal rights and complaint information as they research RCFEs for friends or family or support friends or family in RCFEs.



- (c)(1)(B) The requirement that licensees of all RCFEs post resident personal rights as specified in Sections 87468(a)(1)(A) through (a)(1)(R), which are based on existing regulations, is necessary for consistency. The requirement that licensees of privately operated RCFEs post resident personal rights as specified in regulations is necessary to comply with Health and Safety Code section 1569.267(a), added to statute by AB 2171 (Chapter 702, Statutes of 2014), which requires these licensees to inform residents of personal rights in the California Code of Regulations (CCR), Title 22, Division 6, RCFE section 87468, Personal Rights as well as new statutory personal rights. The CDSS is using its broad authority granted by Health and Safety Code section 1569.30 to continue requiring that licensees of publicly operated RCFEs post resident personal rights as specified in regulations in this Phase I regulations package. These regulations will be followed by more extensive changes to resident personal rights for both privately operated and publicly operated facilities in a forthcoming "Phase II" regulations package.
- (c)(2) The requirement that licensees of privately operated RCFEs also post resident personal rights as specified in Health and Safety Code section 1569.269, which lists new statutory personal rights, is necessary to comply with statute. Health and Safety Code section 1569.265(b), added to statute by AB 2171 (Chapter 702, Statutes of 2014) specifies that personal rights in statute apply only to privately operated RCFEs. Health and Safety Code section 1569.267(a), also added to statute by AB 2171, requires licensees of privately operated RCFEs to inform residents of new statutory personal rights as well as personal rights in the CCR, Title 22, Division 6, RCFE section 87468, Personal Rights.
- (c)(2)(A) The requirement that licensees of all RCFEs post information on the appropriate reporting agency in case of a complaint or emergency by using a complaint information poster is necessary to comply with statute. A complaint poster is being made available to licensees by CDSS and must be posted in the main entryway of a facility to comply with Health and Safety Code section 1569.33, amended in statute by SB 895 (Chapter 704, Statutes of 2014). The Licensing Complaint Poster (PUB 475, 1/15) is incorporated in its entirety, by reference, in the proposed regulations. Although it is unduly cumbersome, expensive, and otherwise impractical to publish this poster in the California Code of Regulations, it can be found on CDSS Community Care Licensing Division website at [www.cclcd.ca.gov](http://www.cclcd.ca.gov). The CDSS is using its broad authority granted by Health and Safety Code section 1569.30 to permit licensees to develop their own complaint poster that is consistent with information on the complaint poster being made available by CDSS. This requirement is also necessary for clarity and consistency, to require that all RCFEs, regardless of whether they are privately operated or publicly operated, have universal posting of complaint information.

- (c)(3) The requirement that licensees of all RCFEs post resident personal rights and complaint information in English and other languages as specified is necessary for clarity and consistency. Health and Safety Code section 1569.267(c), added to statute by AB 2171 (Chapter 702, Statutes of 2014) requires licensees of privately operated RCFEs to post personal rights both in English and in any other language in facilities where five percent or more of residents can only read in that language. The CDSS is using its broad authority to promulgate regulations for licensed RCFEs granted by Health and Safety Code section 1569.30 to extend these requirements to posting both personal rights and complaint information in English and other languages in all RCFEs. These extended requirements are necessary to provide licensees with a clear, measurable and consistent standard for posting this essential information in languages that can be read by residents. They are also necessary to ensure that residents have equal access to and awareness of this essential information.

These regulations meet the "clarity," "consistency" and "reference" standards of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsections (c), (d) and (e). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

#### Section 87468(d)

##### Specific Purpose:

This section is amended to delete the existing regulation and adopt a new regulation. The regulation being repealed required that licensees post personal rights and complaint information "in English, and in facilities where a significant portion of the residents cannot read English, in the language they can read." The adopted regulation requires that licensees of all RCFEs include the language primarily read by each of their residents in a list of residents to be provided to CDSS upon request.

##### Factual Basis:

It is necessary to remove the existing requirement for posting personal rights and complaint information in other languages to clarify that the requirement that a "significant portion" of residents be unable to read English no longer applies to all RCFEs. The existing requirement is inconsistent with Health and Safety Code section 1569.267(c), added to statute by AB 2171 (Chapter 702, Statutes of 2014), which requires licensees of privately operated RCFEs to post personal rights both in English and in any other language in facilities where five percent or more of residents can only read in that language. Further, the term "significant" is subjective and does not provide necessary clarity in regard to the specific number of residents in a given facility that would need to be unable to read English for the requirement to apply.

The addition of regulation is necessary for consistency with existing requirements in the CCR, Title 22, Division 6, RCFE section 87508, Register of Residents. This section requires that licensees ensure that a current register of all residents in a RCFE is maintained and contains specified updated information. It also requires that registers of residents be treated as confidential and be made available to the licensing agency to inspect, audit and copy upon demand during normal business hours. The CDSS is using its broad authority to promulgate regulations granted by Health and Safety Code section 1569.30 to require that this list also include languages read by residents and apply to all RCFEs. This regulation will, when residents in RCFEs read in languages other than English, provide CDSS with a readily available means of identifying languages read by residents to determine whether licensees comply with posting requirements. It will also assist in mitigating the costs of resident records review that might otherwise be incurred to implement AB 2171.

This regulation meets the "clarity" and "consistency" standards of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsections (c) and (d). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

#### Section 87615(a)(2)

##### Specific Purpose:

This section is adopted to include the health condition of having "unstageable wounds" in the list of health conditions that are prohibited in all RCFEs.

##### Factual Basis:

Adoption of this regulation is necessary to clarify that licensees of all RCFEs may not admit or retain residents with unstageable wounds. An unstageable wound is defined by the National Pressure Ulcer Advisory Panel (NPUAP) as a "full thickness tissue loss in which the base of the ulcer is covered by slough (yellow, tan, gray, green or brown) and/or eschar (tan, brown or black) in the wound bed." Until enough slough and/or eschar can be removed to expose the base of the wound, the depth and stage of the wound cannot be determined. Adoption of this regulation is also necessary for consistency with existing regulations. Both Stage 3 and 4 pressure sores (dermal ulcers) are included in Section 87615(a)(1) as health conditions that are prohibited in all RCFEs. Unstageable wounds are considered by the NPUAP to be either Stage 3 or 4 ulcers that cannot definitively be placed in either of these stages due to eschar that obstructs clear observation of the wound. The CDSS is using its broad authority to promulgate regulations for licensed RCFEs in Health and Safety Code section 1569.30 to specify that unstageable wounds are also prohibited health conditions.

This regulation meets the "clarity" and "consistency" standards of the Administrative Procedures Act (APA), Section 11349 of the Government Code, subsections (c) and (d). It also meets the requirements of style pursuant to Section 11343.1 of the Government Code, and the principles of "plain English" rule drafting.

Sections 87615(a)(3) through (a)(7) are Renumbered from Sections 87615(a)(2) through (a)(6)

Specific Purpose/Factual Basis:

Sections 87615(a)(2) through (a)(6) are renumbered to Sections 87615(a)(3) through (a)(7) to accommodate the adoption of Section 87615(a)(2).

b) Identification of Documents Upon Which Department Is Relying

Documents relied upon in proposing these regulations are: AB 2171 (Chapter 702, Statutes of 2014); AB 878 (Chapter 526, Statutes of 1993); SB 895 (Chapter 704, Statutes of 2014); SB 211 (Chapter 409, Statutes of 2003); and California Department of Public Health All Facility Letter (AFL) 08-09 on Mandated Reporting of Staging of Pressure Ulcers, dated May 27, 2008.

c) Local Mandate Statement

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

AB 2171 expands the scope of a crime. SB 211 creates a new crime. Both impose a state-mandated local program. However, neither of these laws require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

d) Statement of Alternatives Considered

In developing the regulatory action, CDSS did not consider any other alternatives than the one proposed because this was the most effective. No reasonable alternative has been presented for review.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact On Business

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Expanded personal rights regulations to implement AB 2171 would apply to privately operated RCFEs. Existing regulatory personal rights would continue to apply to both privately and publicly operated RCFEs. A modified regulation affording residents the personal right to make complaints to specified agencies would apply to all RCFEs, regardless of whether they are privately operated or publicly operated. Regardless of number of residents, all licensees would be required to post personal rights and complaint information, and post this information in other languages when five percent or more of residents primarily read in another language.

There will be some administrative costs to licensees of all RCFEs as a result of statutory requirements enacted by AB 2171, SB 211 and SB 895. Licensees would need to update admission agreements as they relate to resident personal rights and facility procedures as they relate to posting these rights and complaint information in other languages read by five percent or more of residents in a facility. Licensees would also need to develop and implement a method for collecting information from residents on the language they primarily read and compile this information into a single list that is kept accurate and current. The CDSS anticipates that this list will result in negligible cost to licensees since existing regulations in the CCR, Title 22, section 87508 currently require a register of residents, which would be expanded to address languages read by residents. In addition, licensees would need to update the posted resident personal rights and/or complaint information whenever the composition of languages primarily read by residents' changes.

Miscellaneous changes to regulations that do not address resident personal rights will require licensees of RCFEs to not accept or retain residents with unstageable wounds. However, this and other miscellaneous changes do not have any statewide adverse economic impact directly affecting businesses in California.

f) Economic Impact Assessment

In accordance with Government Code section 11346.3(b), CDSS has made economic impact assessments regarding the proposed regulations to implement: AB 2171 (Chapter 702, Statutes of 2014); AB 878 (Chapter 526, Statutes of 1993); SB 895 (Chapter 704, Statutes of 2014); and SB 211 (Chapter 409, Statutes of 2003). The CDSS has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, as identified by the following:

### ***Creation or Elimination of Jobs Within the State of California***

As a result of the passage of AB 2171 and SB 211, these amendments modify some of, and add to, the resident personal rights that have been in the CCR, Title 22, Division 6, RCFE, section 87468, since 2008. As a result of the passage of SB 895, these amendments require that licensees post a poster on how to file complaints, modifying the requirement to post procedures for filing complaints that has been in the CCR, Title 22, Division 6, RCFE, section 87468, since 2008. Other amendments to regulations that do not address personal rights, but are the result of miscellaneous changes in law or standards of care either modify, or are consistent with, requirements that have been in the CCR, Title 22, Division 6, RCFE, since 2008.

The proposed amendments to regulations in this regulations package will neither create nor eliminate jobs in the State of California. They amend existing regulatory requirements as a result of changes in statutory requirements enacted by the bills specified above. The amendments to regulations are consistent with requirements that have been in existing regulations for a number of years. For this reason, CDSS has determined that the proposed regulations will not have an impact on the creation or elimination of jobs in the State of California.

### ***Creation of New or Elimination of Existing Businesses Within the State of California***

As a result of the passage of AB 2171 and SB 211, these amendments modify some of, and add to, the resident personal rights that have been in the CCR, Title 22, Division 6, RCFE, section 87468, since 2008. As a result of the passage of SB 895, these amendments require that licensees post a poster on how to file complaints, modifying the requirement to post procedures for filing complaints that has been in the CCR, Title 22, Division 6, RCFE, section 87468, since 2008. Other amendments to regulations that do not address personal rights, but are the result of miscellaneous changes in law or standards of care either modify, or are consistent with, requirements that have been in the CCR, Title 22, Division 6, RCFE, since 2008.

The proposed amendments to regulations in this regulations package will neither create nor eliminate existing businesses in the State of California. They amend existing regulatory requirements as a result of changes in statutory requirements enacted by the bills specified above. The amendments to regulations are consistent with requirements that have been in existing regulations for a number of years. For this reason, CDSS has determined that the proposed regulations will not have an impact on the expansion or elimination of existing businesses in the State of California.

### ***Expansion or Elimination of Businesses Currently Doing Business Within the State of California***

As a result of the passage of AB 2171 and SB 211, these amendments modify some of, and add to, the resident personal rights that have been in the CCR, Title 22, Division 6, RCFE, section 87468, since 2008. As a result of the passage of SB 895, these amendments require that licensees post a poster on how to file complaints, modifying the requirement to post procedures for filing complaints that has been in the CCR, Title 22, Division 6, RCFE, section 87468, since 2008. Other amendments to regulations that do not address personal rights, but are the result of miscellaneous changes in law or standards of care either modify, or are consistent with, requirements that have been in the CCR, Title 22, Division 6, RCFE, since 2008.

The proposed amendments to regulations in this regulations package will neither expand nor eliminate businesses currently doing business in the State of California. They amend existing regulatory requirements as a result of changes in statutory requirements enacted by the bills specified above. The amendments to regulations are consistent with requirements that have been in existing regulations for a number of years. For this reason, CDSS has determined that the proposed regulations will not have an impact on the expansion or elimination of businesses currently doing business in the State of California.

### ***Benefits of the Regulations***

The CDSS anticipates that the proposed regulations will benefit the health and welfare of residents receiving care in privately operated RCFEs by ensuring that they have statutory personal rights that are to be observed by licensees. These personal rights are in the spirit of the Resident Bill of Rights implemented by the California Advocates for Nursing Home Reform, California Department of Public Health, and Medicare. These regulations will allow residents to have additional personal rights in statute that are more responsive to their individual desires and needs, such as the right to: receive a comprehensive description of how residents' needs are evaluated; share a room with any other resident of their choice when there is mutual consent; and prompt access to all of their records. Residents in both privately operated and publicly operated RCFEs will continue to have the protection of personal rights, which includes a clarification and strengthening of a personal right, in existing regulations. The personal rights being implemented in these regulations provide essential protection for residents of all RCFEs who are often vulnerable elderly and without advocates or family to ensure that their rights are observed. They are intended to prevent discrimination and promote fairness and equity. The proposed regulations will also ensure that residents, including those who read primarily in other languages, in all RCFEs have equal access to and awareness of personal rights and complaint information so that they can advocate for themselves when necessary. In addition, the proposed regulations will benefit licensee compliance in providing care to residents. There are no additional benefits for worker safety or the state's environment, as the regulations only affect residents in California Residential Care Facilities for the Elderly.

### ***Documents Relied Upon***

Documents relied upon in proposing these regulations are: AB 2171 (Chapter 702, Statutes of 2014); AB 878 (Chapter 526, Statutes of 1993); SB 895 (Chapter 704, Statutes of 2014); and SB 211 (Chapter 409, Statutes of 2003); and California Department of Public Health AFL 08-09 on Mandated Reporting of Staging of Pressure Ulcers, dated May 27, 2008.

#### **g) Benefits Anticipated from Regulatory Action**

The CDSS anticipates that the proposed regulations will benefit the health and welfare of residents receiving care in privately operated RCFEs by ensuring that they have statutory personal rights that are to be observed by licensees. These personal rights are in the spirit of the Resident Bill of Rights implemented by the California Advocates for Nursing Home Reform, California Department of Public Health, and Medicare. These regulations will allow residents to have additional personal rights in statute that are more responsive to their individual desires and needs, such as the right to: receive a comprehensive description of how residents' needs are evaluated; share a room with any other resident of their choice when there is mutual consent; and prompt access to all of their records. Residents in both privately operated and publicly operated RCFEs will continue to have the protection of personal rights, which includes a clarification and strengthening of a personal right, in existing regulations. The personal rights being implemented in these regulations provide essential protection for residents of all RCFEs who are often vulnerable elderly and without advocates or family to ensure that their rights are observed. These personal rights are intended to prevent discrimination and promote fairness and equity. The proposed regulations will also ensure that residents, including those who read primarily in other languages, in all RCFEs have equal access to and awareness of personal rights and complaint information so that they can advocate for themselves when necessary. In addition, the proposed regulations will benefit licensee compliance in providing care to residents. These proposed regulations have no direct benefit to worker safety or the state's environment, as the proposed regulations only affect residents in California Residential Care Facilities for the Elderly.

#### **h) Statement of Specific Technology or Equipment**

This regulatory action will not mandate the use of new, specific technologies or equipment.